

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

OWEN W. BARNABY,
Plaintiff- Appellant

)
)

Vs.

) Hon. Robert J. Jonker
) Hon. Mag. Sally J. Berens

MICHIGAN STATE GOVERNMENT, ET, AL
Defendants- Appellees

) Case No. 1:22 -CV- 1146

Owen W. Barnaby
P.O. Box 1926
Kennesaw, GA 30156
(678) 382- 4183
Bossproperties96@gmail.com

Attorney T. Hackworth
Berrien County Government
701 Main Street, St. Joseph, Michigan 49085
T. (269) 983-7111, ex 8416 | thackworth@berriencounty.org

Attorney, T. Seth Koches,
Niles-Charter-Township/Board of Trustee
470 W. Centre Ave., Ste. A, Portage, MI. 49024
T. 269-382-4500 Koches@michigantownshiplaw.com

Jeffery R. Holmstrom (P29405)
Holmstrom Law Office PLC
830 Pleasant Street Suite 100
St. Joseph, MI 49085
T. (269)-983-0755 | jeff@holmstromlawoffice.com

Attorney Emily P Jenks
6th Floor at Ford Field
1901 St. Antoine St. Detroit, MI 48226
T: 313-393-7582 | EJenks@bodmanlaw.com

Berrien County Courthouse,
811 Port St, St Joseph, MI 49085

Pendrick Kimberly Attorney General of Michigan
525 W. Ottawa, 5th Floor
P.O. Box 30736, Lansing, MI 48909
T. 517-335- 7659 | PendrickK@michigan.gov

EXPEDITED CONSIDERATION REQUESTED

**‘PLAINTIFF’S EMERGENCY MOTION FOR, CLARIFICATION ON
DEFENDANTS’ WILLFUL REJECTIONS OF SERVED SUMMONSES
WITH COMPLAINT**

Plaintiff, In Pro Se, Owen W. Barnaby, request that his, ‘Emergency Motion for Clarification on Defendants Berrien County’s Government and Its Employees, Defendant – Bret Witkowski in His Individual Capacity, and the Defendants Berrien County Trial Court and Its Judges willful rejections of his Served Summonses with Third Complaint-(ECF No.36), be granted. Further, Plaintiff request expedited consideration under L.R. 7.1(e), considering Order-(ECF No.131).

The request is based on the Brief in Support filed with the request facts and legal authorities and arguments contained in the Supporting Brief.

Respectfully Submitted,

Dated: March 26, 2024,

\S/ Owen W. Barnaby
Owen W. Barnaby, In Pro Se.

**PLAINTIFF’S SUPPORTING BRIEF FOR HIS
‘EXPEDITED CONSIDERATION REQUESTED’
‘PLAINTIFF’S EMERGENCY MOTION FOR, CLARIFICATION ON
DEFENDANTS’ WILLFUL REJECTIONS OF SERVED SUMMONSES WITH
COMPLAINT**

THE RELEVANT FACTS

Defendants’ willful wanton misconducts have caused Plaintiff to lose all his same real properties, his employment, his livelihood, suffered homelessness, the death of our son; hardship of great pain and suffering; and emotional distress. Because Plaintiff’s properties were his employment that, Defendants stole by forgery and fraud. Plaintiff came up with the most economical and expedient course to serve the Defendants with the Summonses and copies of the Second Amended Complaint (ECF No.10). Exhibit W-8.

As such, Plaintiff employed one same strategy on the same day with the same Post Office. First, Plaintiff called the Defendants to inform them of the pending litigation and to ascertain concurrence on whom to send Summonses and copies of Second Amended Complaint (ECF No.10) for proper service. Then, Plaintiff mailed by US Postal certified mail, with restricted Delivery and with return receipt with original Summonses and copies of Second Amended Complaint (ECF No.10). see Exhibit W-8.

1). Plaintiff called, the Niles Charter Township Defendants, and spoke with Ms. Marge Duram-Hiatt Defendants’ and Ms. Marge Duram-Hiatt instructed Plaintiff to serve Summonses and copies of Complaint to her on behalf of the Niles Charter Township Defendants. **2).** Plaintiff called the Berrien County Defendants on or about November 22, 2022, and spoke with Attorney, Thaddeus Hackworth, and he instructed Plaintiff to serve Summonses and copies

Complaint to him on behalf of the Berrien County Defendants. **3).** Plaintiff called the City of Benton Harbor Defendants, and they instructed Plaintiff to serve Summons and copy of Complaint to their City Manager, Mr. Ellis Mitchell on behalf of the Defendants. **4).** Plaintiff called the State of Michigan Governor's Office, and they instructed Plaintiff to serve Summonses and copies of Complaint to Attorney Nicholas Bagley on behalf of Defendant – Hon. Rick Snyder Governor; Defendant – Hon. Jennifer Granholm, Governor; Defendant – Hon. Gretchen Whitmer Governor; Defendant – Michigan State Government. Moreover, Plaintiff called Attorney Nicholas Bagley's office after he had served original Summonses and copies of Second Amended Complaint (ECF No.10). And Attorney Nicholas Bagley's Office confirmed that, they were properly served, but that the Michigan State Attorney General's Office going forward will be representing Hon. Rick Snyder Governor; Hon. Jennifer Granholm, Governor; Hon. Gretchen Whitmer Governor and Michigan State Government.

5). Plaintiff called the Michigan State Attorney General's Office, about Defendant – Kendell S. Asbenson assistant Attorney General and Defendant – Dana Nessel Attorney General and they instructed Plaintiff to serve Summonses and copies of Complaint upon Defendant – Dana Nessel the Attorney General on behalf of both Kendell S. Asbenson assistant Attorney General and Defendant – Dana Nessel Attorney General.

6). Plaintiff called Attorney Holmstrom, given their long history as Attorney Jeffery R. Holmstrom and Holmstrom Law Office PLC in the cases, Barnaby v. Witkowski, 1:14-cv-1279 and Barnaby Vs Mayfield, No. 20-1564 (6th Cir. May. 5, 2020) and informed them of this pending litigation. Then, Plaintiff mailed US Postal certified mail, with restricted Delivery and with return receipt with two original Summonses and two copies of the Complaint to the Attorney Jeffery R. Holmstrom and Holmstrom Law Office PLC Defendants, and they were

delivered at Holmstrom Law Office PLC Professional Practice office on December 09, 2022.

Please see, (ECF Nos. 22, 29, 49) and Exhibit W-8.

7). Notwithstanding that, Plaintiff had already properly served the Defendants Berrien County's Government and Its Employees, Defendant – Bret Witkowski in His Individual Capacity, by US Postal certified mail, with restricted Delivery and with return receipt and Plaintiff's filings in the District Court for the preservation of his Default-(ECF Nos 32, 75, 95, 124) and Default judgment-(ECF Nos 28, 77, 81) against them. See, (ECF No. 139, PagesID.1748-1814) and EXHIBIT W-20. Plaintiff, on Monday, March 25, 2024, for the second time in this proceeding, served Berrien County Defendants by US Postal certified mail, with restricted Delivery and with return receipt, on Ms. Sharon Tyler, Clerk of Berrien County Government; to her on behalf of the fifteen Defendants, below:

1), Defendant - Lori D. Jarvis Registrar; **2)**, Defendant - Lora L. Freehling Registrar; **3)**, Defendant - Kathleen Culberson, Notary Public; **4)**, Defendant – Bret Witkowski, Treasurer; **5)**, Defendant – Shelly Weich, Treasurer; **6)**, Defendant – Board of Commissioner; **7)**, Defendant – Attorney Mckinley R. Elliott; **8)**, Defendant – Attorney Donna B. Howard; **9)**, Defendant – Attorney James McGovern; **10)**, Defendant – Berrien County Government; **11)**, Defendant – Bret Witkowski, in his Individual capacity; **12).** Defendant – Hon. Mayfield C.J; **13).** Defendant – Hon. Gary J. Bruce F.C.J; **14).** Defendant – Hon. Alfred M. Butzbaugh, F.C.J; **15).** Defendant – Berrien Court Trial Court.

Lastly, 8). Plaintiff has learnt this Morning that Ms. Sharon Tyler; Clerk of Berrien County Government has willfully rejected the served Summonses with the Third Amended Complaint, based on an electric receipt. Given this District Court's denial of Plaintiff's past actions for Default Judgments against Defendants. Plaintiff now file this, 'Emergency Motion for Clarification on Defendants Berrien County's Government and Its Employees, Defendant – Bret Witkowski in his Individual Capacity, and the Defendants Berrien County Trial Court and Its Judges willful rejections of his Served Summonses with Third Complaint-(ECF No.36).

ARGUMENT

First, Plaintiff contends that, Defendants Berrien County's Government and Its Employees, Defendant – Bret Witkowski in His Individual Capacity, and the Defendants Berrien County Trial Court and Its Judges Crimes of : Forgeries, Fraud, Fraud Upon Courts, Thieveries, Falsifications of Court's and County's Records Coverup, Unauthorized Practice of Law, Discrimination and Unlawful Concealment and Conspiracies to commit the same have caused Plaintiff to lose all his same real properties, his employment, his livelihood, suffered homelessness, the death of our son; hardship of great pain and suffering; and emotional distress. Because Plaintiff's properties were his employment and his livelihood for him and his family, their lives have been very difficult over these last fourteen years. As such, it is of great financial hardship to serve the Summonses with copies of the Third Amended Complaint for the Second time.

Secondly, that it took Plaintiff weeks to come up with the money to serve Defendants Berrien County's Government and Its Employees, and Defendant – Bret Witkowski in His Individual Capacity for the second time. Moreover, Plaintiff has served on all fifteen Defendants, 1395 pages of documents. A Summons per each fifteen Defendants total fifteen-pages of Summonses and the Ninety-two pages Complaint, per each Defendant, the fifteen Defendants total 1380 pages of documents, grand total of One-thousand, three-hundred and ninety-five pages of document, were served on Defendants. It took weeks for Plaintiff to come up with the budget only to be rejected by the Clerk of Berrien County Government, Ms. Sharon Tyler. Michigan Laws permit the same service upon the Clerk of Berrien County Government, Ms. Sharon Tyler, pursuant to [Mich. Ct. R. 2.105 (A)(1) (2)]; [Mich. Ct. R. 2.105 (G)(1)]. As such, Plaintiff seeks clarification on how the Court would have him to proceed considering, the

Clerk of Berrien County Government, Ms. Sharon Tyler's refusal, or rejection of the served Summons with copies of the Third Amended Complaint(ECF No.36).

Tracking Number:

9589071052700560928575

[Copy Add to Informed Delivery](#)

Latest Update

Your item was refused by the addressee at 7:49 am on March 26, 2024 in SAINT JOSEPH, MI 49085 and is being returned to the sender.

Get More Out of USPS Tracking:
[USPS Tracking Plus®](#)

Alert

Refused

SAINT JOSEPH, MI 49085

March 26, 2024, 7:49 am

Third, Plaintiff had already properly served, on December 09, 2022, by US Postal certified mail, with restricted Delivery and with return receipt the Berreien County Defendants. Plaintiff has spoken with Defendants' Attorney, Mr. Thaddeus Hackworth, and he instructed Plaintiff to serve him on behalf of his same Clients. The signed return receipt, PS Form 381,(copied Green Card) is attached proof of service on all named Defendants:

1), Defendant - Lori D. Jarvis Registrar; 2), Defendant - Lora L. Freehling Registrar; 3), Defendant - Kathleen Culberson, Notary Public; 4), Defendant – Bret Witkowski, Treasurer; 5), Defendant – Shelly Weich, Treasurer; 6), Defendant – Board of Commissioner; 7), Defendant – Attorney Mckinley R. Elliott; 8), Defendant – Attorney Donna B. Howard; 9), Defendant – Attorney James McGovern; 10), Defendant – Berrien County Government; 11), Defendant – Bret Witkowski, in his Individual capacity. See, (ECF No. 29); (ECF No. 139, PagesID.1748-1814); EXHIBIT W-20

Fourth, notwithstanding that, the above named Berrien County Defendants are properly served by US Postal certified mail, with restricted Delivery and with return receipt. The signed return receipt, PS Form 381,(copied Green Card) and Plaintiff's filings in the District Court for the preservation of his Default-(ECF Nos 32, 75, 95, 124) and Default judgment-(ECF Nos 28, 77, 81) against them. See, (ECF No. 139, PagesID.1748-1814) and EXHIBIT W-20. Plaintiff,

on Monday, March 25, 2024, for the second time in this proceeding, properly service Berrien County Defendants by US Postal certified mail, with restricted Delivery and with return receipt, on Ms. Sharon Tyler, Clerk of Berrien County Government; to her on behalf of the eleven above Named Defendants. The see online electric return receipt, PS Form 381,(copied Green Card) is attached proof of service on all named Defendants.

Five, Michigan Laws permit same service upon the Clerk of Berrien County Government, Ms. Sharon Tyler, pursuant to [Mich. Ct. R. 2.105 (A)(1) (2)]; [Mich. Ct. R. 2.105 (G)(1)]. Plaintiff, on Monday, March 25, 2024, properly served Summonses with Third Amended Complaint-(ECF No 36): **1).** Defendant – Hon. Mayfield C.J; **2).** Defendant – Hon. Gary J. Bruce F.C.J; **3).** Defendant – Hon. Alfred M. Butzbaugh, F.C.J; **4).** Defendant – Berrien Court Trial Court, Defendants by US Postal certified mail, with restricted Delivery and with return receipt, on Ms. Sharon Tyler, Clerk of Berrien County Government, to her on behalf of the four above Named Defendants. The see online electric return receipt, PS Form 381,(copied Green Card) is attached proof of service on Defendants the Berrien County Trial Court and Its Judges, last update rejected served Summonses with copies of Complaint.

Six, Plaintiff find it very strange, that, on Monday 25, 2026 the expected delivery was between 7:45 AM to 11:45AM. However, the latest updates stated that, Ms. Sharon Tyler, Clerk of Berrien County Government, refused the service of Summonses with copies of the Third Amended Complaint on March 26, 2024, at 7:49 AM.¹ Plaintiff contends that something is odd.

¹ On Monday 25, 2026 the expected delivery was between 7:45 AM to 11:45AM. However, the latest updates stated that, the Berrien County Clerk, Ms. Sharon Tyler, refused the service of Summonses with copies of the Third Amended Complaint on March 26, 2024, at 7:49 AM.

Tracking Number:

9589071052700560928575

[Copy Add to Informed Delivery](#)

Latest Update

Your item was refused by the addressee at 7:49 am on March 26, 2024 in SAINT JOSEPH, MI 49085 and is being returned to the sender.

Get More Out of USPS Tracking:

[USPS Tracking Plus®](#)

Alert

Refused

SAINT JOSEPH, MI 49085

March 26, 2024, 7:49 am

Out for Delivery

SAINT JOSEPH, MI 49085

March 25, 2024, 7:52 am

Arrived at Post Office

BENTON HARBOR, MI 49022

March 25, 2024, 7:41 am

In Transit to Next Facility

March 24, 2024

Arrived at USPS Regional Origin Facility

ATLANTA GA DISTRIBUTION CENTER

March 22, 2024, 10:32 am

Departed Post Office

KENNESAW, GA 30144

March 19, 2024, 5:42 pm

USPS in possession of item

KENNESAW, GA 30144

March 19, 2024, 2:25 pm

[Hide Tracking History](#)

9:07
◀ Gmail



Tracking Number:

Remove X

9589071052700560928575



Copy



Add to Informed Delivery

Expected Delivery on

MONDAY

25 March 2024 ⓘ

between

7:45am and 11:45am ⓘ

Your item is out for delivery on March 25, 2024 at 7:52 am in SAINT JOSEPH, MI 49085.

Get More Out of USPS Tracking:



USPS Tracking Plus®

Delivered

Out for Delivery

Out for Delivery, Expected Delivery Between 7:45am and 11:45am

SAINT JOSEPH, MI 49085

March 25, 2024, 7:52 am

Arrived at Post Office

BENTON HARBOR, MI 49022

March 25, 2024, 7:41 am

See All Tracking History

Seventh, Plaintiff find it just as strange as the Holmstrom Defendants rejected mail. The Holmstrom Defendants claimed the willfully rejected Summonses with copies of Complaint, but it was never returned to Plaintiff. It stated that it is still in ATLANTA GA DISTRIBUTION CENTER origin facility from December 30, 2022, at 11:50 pm, to present.

Tracking Number:

70221670000121730528

[Copy Add to Informed Delivery](#)

Latest Update

Your item arrived at our ATLANTA GA DISTRIBUTION CENTER origin facility on December 30, 2022 at 11:50 pm. The item is currently in transit to the destination.

Get More Out of USPS Tracking:

[USPS Tracking Plus®](#)

In Transit from Origin Processing

Arrived at USPS Regional Origin Facility
ATLANTA GA DISTRIBUTION CENTER
December 30, 2022, 11:50 pm

Unclaimed/Being Returned to Sender

BENTON HARBOR, MI 49022

December 28, 2022, 11:12 am

Reminder to Schedule Redelivery of your item

December 14, 2022

Notice Left (No Authorized Recipient Available)

SAINT JOSEPH, MI 49085

December 9, 2022, 1:49 pm

Out for Delivery

SAINT JOSEPH, MI 49085

December 9, 2022, 6:10 am

Arrived at Post Office

BENTON HARBOR, MI 49022

December 8, 2022, 9:03 pm

Arrived at USPS Regional Destination Facility

GRAND RAPIDS MI DISTRIBUTION CENTER ANNEX

December 8, 2022, 9:40 am

In Transit to Next Facility

December 7, 2022

Arrived at USPS Regional Origin Facility

ATLANTA-PEACHTREE GA DISTRIBUTION CENTER

December 5, 2022, 8:06 pm

USPS in possession of item

KENNESAW, GA 30144

December 5, 2022, 2:43 pm

[Hide Tracking History](#)

Eight, Plaintiff did email the Fourth Amended Complaint-(ECF Nos.145, 146), to the Berrien County's Government Defendants and the Defendants Berrien County Trial Court and Its Judges Defendants. Moreover, one of, Defendants Berrien County Trial Court and Its Judges, Employee, told Plaintiff that, Attorney T. Hackworth is the representative for the Defendants Berrien County Trial Court and Its Judges.

Relief Requesting

For the reasons articulated therein, Plaintiff humbly and respectfully request and hope that it will please this Your Honorable Court, to grant Plaintiff Clarification as the Clerk of Berrien County Government, Ms. Sharon Tyler, refused or rejected served Summonses with copies of Third Amended Complaint (ECF No.36), on behalf of Defendants listed below pursuant to [Mich. Ct. R. 2.105 (A)]; [Mich. Ct. R. 2.105 (G)(1)]:

1), Defendant - Lori D. Jarvis Registrar; **2)**, Defendant - Lora L. Freehling Registrar; **3)**, Defendant - Kathleen Culberson, Notary Public; **4)**, Defendant – Bret Witkowski, Treasurer; **5)**, Defendant – Shelly Weich, Treasurer; **6)**, Defendant – Board of Commissioner; **7)**, Defendant – Attorney Mckinley R. Elliott; **8)**, Defendant – Attorney Donna B. Howard; **9)**, Defendant – Attorney James McGovern; **10)**, Defendant – Berrien County Government; **11)**, Defendant – Bret Witkowski, in his Individual capacity; **12).** Defendant – Hon. Mayfield C.J; **13).** Defendant – Hon. Gary J. Bruce F.C.J; **14).** Defendant – Hon. Alfred M. Butzbaugh, F.C.J; **15).** Defendant – Berrien Court Trial Court.

Considering this Court's denial of Plaintiff's Application for Default-(ECF Nos, 32, 75, 95, 124), and Application and Default Judgment-(ECF Nos, 28, 31, 77, 81, 88), when they are filed against Defendants. Plaintiff now seeks clarification on how the Court would have him to proceed in light of the Clerk of Berrien County Government refusal or rejection, to accept the served Summonses with copies of Third Amended Complaint-(ECF No, 36).

Respectfully Submitted,

Dated: March 26, 2024,

\S/ Owen W. Barnaby
Owen W. Barnaby, In Pro Se.

CERTIFICATE OF RULE COMPLIANCE

This brief complies with the word limit of L. Civ. R. 7.3(b)(i) because it contains 2,413 words, excluding the parts exempted by L. Civ. R. 7.3(b)(i). The word count was generated using Microsoft Word 2013.

Respectfully Submitted,

Dated: March 26, 2024,

\S/ Owen W. Barnaby
Owen W. Barnaby, In Pro Se.

CERTIFICATE OF SERVICE

The undersigned states that on the 26th day of March 2024, a duplicate original of Plaintiff's, "EXPEDITED CONSIDERATION REQUESTED" PLAINTIFF'S EMERGENCY MOTION FOR, CLARIFICATION ON DEFENDANTS' WILLFUL REJECTIONS OF SERVED SUMMONSES WITH COMPLAINT.", was filed with the Clerk of the Court, using the ECF System, which will provide electric notice to the parties of record, and I have emailed/mailed by U.S. Postal Service the same to non-ECP participants.

Respectfully Submitted,

Dated: March 26, 2024,

\S/ Owen W. Barnaby
Owen W. Barnaby, In Pro Se.

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

OWEN W. BARNABY,
Plaintiff- Appellant

)
)

Vs.

) Hon. Robert J. Jonker
) Hon. Mag. Sally J. Berens

MICHIGAN STATE GOVERNMENT, ET, AL
Defendants- Appellees

) Case No. 1:22 -CV- 1146

Owen W. Barnaby
P.O. Box 1926
Kennesaw, GA 30156
(678) 382- 4183
Bossproperties96@gmail.com

Attorney T. Hackworth
Berrien County Government
701 Main Street, St. Joseph, Michigan 49085
T. (269) 983-7111, ex 8416 | thackworth@berriencounty.org

Attorney, T. Seth Koches,
Niles-Charter-Township/Board of Trustee
470 W. Centre Ave., Ste. A, Portage, MI. 49024
T. 269-382-4500 Koches@michigantownshiplaw.com

Jeffery R. Holmstrom (P29405)
Holmstrom Law Office PLC
830 Pleasant Street Suite 100
St. Joseph, MI 49085
T. (269)-983-0755 | jeff@holmstromlawoffice.com

Attorney Emily P Jenks
6th Floor at Ford Field
1901 St. Antoine St. Detroit, MI 48226
T: 313-393-7582 | EJenks@bodmanlaw.com

Berrien County Courthouse,
811 Port St, St Joseph, MI 49085

Pendrick Kimberly Attorney General of Michigan
525 W. Ottawa, 5th Floor
P.O. Box 30736, Lansing, MI 48909
T. 517-335- 7659 | PendrickK@michigan.gov

CERTIFICATE REGARDING COMPLIANCE WITH LCivR 7.1(d)

**For,
'EXPEDITED CONSIDERATION REQUESTED'
'PLAINTIFF'S EMERGENCY MOTION FOR, CLARIFICATION ON DEFENDANTS'
WILLFUL REJECTIONS OF SERVED SUMMONSES WITH COMPLAINT**

In accordance with W.D Mich. LCivR 7.1(d), the undersigned hereby states that on March 26, 2024, Plaintiff emailed Defendants' legal Representative seeking concurrence to "EXPEDITED CONSIDERATION REQUESTED" PLAINTIFF'S EMERGENCY MOTION FOR, CLARIFICATION ON DEFENDANTS' WILLFUL REJECTIONS OF SERVED SUMMONSES WITH COMPLAINT." Plaintiff is yet to hear back from Defendants' or their representative as such Plaintiff is not sure if they will be objecting.

Respectfully Submitted,

Dated: March 26, 2024,

\S/ Owen W. Barnaby
Owen W. Barnaby, In Pro Se.